

THOMAS P. DINAPOLI  
STATE COMPTROLLER



110 STATE STREET  
ALBANY, NEW YORK 12236

STATE OF NEW YORK  
OFFICE OF THE STATE COMPTROLLER

May 5, 2021

Barry Sample  
Chair  
New York State Gaming Commission  
One Broadway Center  
Schenectady, NY 12301

Re: Oversight of Casino Revenues and  
Regulatory Oversight Reimbursement  
Collections  
Report 2020-F-31

Dear Mr. Sample:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have followed up on the actions taken by officials of the Gaming Commission to implement the recommendations contained in our audit report, *Oversight of Casino Revenues and Regulatory Oversight Reimbursement Collections* (Report [2019-S-8](#)).

**Background, Scope, and Objective**

The Gaming Commission (Commission) regulates all aspects of gaming activity in New York and is responsible for overseeing three types of casinos in the State: commercial, video lottery terminal (VLT), and Class III tribe/nation (tribe/nation). Commercial and VLT casinos are required to remit a percentage of their gaming revenues to the State, and tribe/nation casino remittances are defined in compacts (agreements with the State). During the State fiscal year ended March 31, 2020, the Commission reported that it received \$1.34 billion in casino revenues: \$1.07 billion from VLT casinos, including \$917 million as education aid; \$183.7 million from commercial casinos; and \$85 million from tribe/nation casinos. According to information reported on the casino websites, all 19 of the commercial, VLT, and tribe/nation casinos closed in late March 2020 due to the COVID-19 pandemic. The seven tribe/nation casinos partially reopened between June and August of 2020, and the eight VLTs and four commercial casinos were allowed to reopen in September 2020.

The Commission has officials at each of the 19 casinos to ensure compliance with gaming regulations and tribe/nation compacts and collect the costs for these oversight activities (also known as regulatory or operation and administration costs) from each casino.

We issued our initial audit report on January 10, 2020. The audit objective was to determine whether the Commission adequately monitored casinos to ensure revenues were appropriately collected, accounted for, and transmitted to the State and regulatory oversight costs were assessed and collected as required by law or compact. The audit covered the

period April 1, 2016 through March 31, 2019 and considered information received from the Commission through October 28, 2019.

Our audit identified an estimated \$13 million in oversight costs that the Commission had not billed to commercial casinos. In addition, the Commission lacked policies regarding dispute resolution procedures for commercial casino oversight cost charges, leaving it unprepared to address disputes that might arise. Finally, while we found the Commission was adequately monitoring casinos to ensure that revenues were appropriately collected, accounted for, and transmitted to the State as required, it was not evaluating risks related to tribe/nation revenue reporting.

The objective of our follow-up review was to assess the extent of implementation, as of February 11, 2021, of the four recommendations included in our initial audit report.

### **Summary Conclusions and Status of Audit Recommendations**

Commission officials have made limited progress in addressing the issues we identified in the initial audit report. Of the initial report's four recommendations, the Commission has partially implemented two and has not implemented two.

### **Follow-Up Observations**

#### **Recommendation 1**

*Assess and bill commercial casinos' oversight costs in a timely manner.*

Status – Partially Implemented

Agency Action – The Commission assessed and billed each of the four commercial casinos for personal service oversight costs totaling \$9.3 million for the period December 1, 2016 to March 31, 2019. The letter that accompanied the assessments was dated November 21, 2019 and due by December 21, 2019. However, the Commission did not provide evidence that it assessed and billed casinos for non-personal service costs for that same period, which totaled about \$3.7 million, nor has it collected any of the \$13 million in oversight costs (\$9.3 million in personal service costs plus the unbilled \$3.7 million in non-personal service costs) we identified during the initial audit.

In November 2020, the Commission assessed and billed oversight costs for the four commercial casinos for the period April 1, 2019 through March 31, 2020, totaling just under \$4.7 million and due December 9, 2020. At the time of our review, the Commission had not yet collected these costs. Commission officials stated that they have not received a formal dispute notice from the commercial casinos, but have received correspondence indicating concern with some billing elements. They also stated that staff have met with casinos to discuss billing methodology and these discussions are continuing.

#### **Recommendation 2**

*Develop and implement policies and procedures for handling oversight cost disputes.*

Status – Partially Implemented

Agency Action – The Commission has created draft policies and procedures that address oversight cost disputes, but they have not yet been approved or incorporated into its practices.

### **Recommendation 3**

*Include tribe/nation casino revenue reporting in the Commission's annual risk assessment, and adapt procedures as needed based on results.*

Status – Not Implemented

Agency Action – In response to our audit, the Commission developed a draft risk assessment that includes ensuring the revenue documentation is received timely in its list of functions to be assessed. During the initial audit, the Commission assessed the risks annually at each tribe/nation, with the most recently completed assessments being done in April and May 2018. We requested the two most recent risk assessments for the tribe/nation casinos (i.e., those for 2019 and 2020), but, as of February 2021, the Commission had not provided them or confirmed that they were even done. Therefore, we conclude that the Commission has not implemented this recommendation.

### **Recommendation 4**

*Exercise oversight activities identified and permitted in compacts, as risk assessment results warrant, to ensure reported revenues and payment calculations are correct.*

Status – Not Implemented

Agency Action – Despite our request during this follow up that Commission officials provide the risk assessments, they did not do so. They also asserted that based on the risk assessment results, they have determined that the current oversight activities are sufficient for ensuring revenue and payment. Without information to support the Commission's statements, we conclude that it has not implemented this recommendation.

Major contributors to this report were Brandon Ogden, Theresa Nellis-Matson, and Rupert Wilmot-Dunbar.

We would appreciate your response to this report within 30 days, indicating any actions planned to address the unresolved issues identified in the report. We thank Commission management and staff for the courtesies and cooperation extended to our auditors during this review.

Very truly yours,

Sharon L. Salembier, CPA, CFE  
Audit Manager

cc: Sandra Meadows, Gaming Commission